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October 29, 2014

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: Notice of *Ex Parte* in WC Docket No. 02-60 and GN Docket No. 14-28
Request for Review of a Decision of the Universal Service Administrator
Protecting the Open Internet
California Telehealth Network

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules¹ we hereby provide notice of a written and oral ex parte presentation in connection with the above captioned proceedings. On Monday, October 27, 2014, Eric Brown, President and CEO of the California Telehealth Network ("CTN"), Jeffrey Sinsheimer of Coblenz Patch Duffy & Bass LLP, and undersigned counsel met with the following individuals from the Wireline Competition Bureau ("Bureau"): Deputy Bureau Chief Matthew DelNero, Associate Bureau Chief Trent Harkrader, Acting Legal Advisor Mark Walker, and staff attorney Elizabeth McCarthy. We also met separately with Nicholas Degani, legal advisor to Commissioner Pai, and Amy Bender, legal advisor to Commissioner O'Rielly. Finally, on Wednesday, October 29, we met with the following members of the Commission's CONNECT2HEALTHFCC Task Force: Chairperson Michele Ellison, Karen Onyeije, Deborah Klein, and Yahya Shaikh.

The purpose of the meetings was to provide an update on CTN's growth and progress in meeting the Commission's policy goals for the Rural Health Care program, to review CTN's appeal of USAC's denial of program eligibility for 29 non-rural health clinics,² and to discuss CTN's recently filed comments in the Open Internet proceeding.³ We also urged the Bureau to support continued innovation in the RHC program by utilizing the \$50 million in funds originally designated for a pilot program connecting Skilled Nursing Facilities. Our discussions were consistent with the attached slide presentation.

¹ 47 C.F.R. § 1.1206.

² See California Telehealth Network Request for Review of Decision of the Universal Service Administrator, WC, Docket No. 02-60 (filed Dec. 20, 2013).

³ CTN Comments in GN Docket No. 14-28 (filed Sept. 10, 2014).

Specifically, we discussed the results of survey data CTN is now gathering about how participants are using their CTN connections. We noted that CTN is still growing and that 350 participants are waiting to join CTN through the new Healthcare Connect Fund. We discussed the importance of continued broadband deployment capable of supporting the current and future use case for connected healthcare. On this point it is important to recognize that *50% of CTN participants are subscribed to T1 connections.*⁴

Regarding CTN's appeal filed in December 2013, we discussed the importance of a timely decision by the Bureau.⁵ We noted that 25% of CTN participants are non-rural clinics and this is true of other large consortia organized as part of the RHC Pilot Program (all of which are now migrating to the Healthcare Connect Fund). We expressed concern the change in policy on non-rural clinics undermines the sustainability of large consortia like CTN which depend on a broad base of participants in order to support significant administrative costs. We explained that many of the denied sites are owned and controlled by hospitals and could more accurately be considered eligible in the "not-for-profit hospital" eligibility category. In addition, many clinics provide functions similar or equivalent to community health centers; for example, by treating all members of the local community without regard to financial ability. USAC should establish and make publicly available the functional criteria it uses to determine eligibility for each statutory eligibility category. These criteria should then be used to evaluate non-hospital owned non-profit clinics.⁶

Regarding CTN's Open Internet comments, our discussion was consistent with those comments and bullets in the attached presentation.

Sincerely,



Jeffrey A. Mitchell
Counsel for California Telehealth Network

Attachment

⁴ This was the maximum bandwidth available at the time of installation. CTN is currently reassessing whether broadband availability has changed for these since installation occurred.

⁵ See 47 C.F.R. § 54.724(a) (90 days for the Bureau to issue a decision deciding a USAC appeal).

⁶ Making eligibility criteria publicly available would have the additional general benefit of helping avoid unnecessary appeals. See, e.g., Hope Community Resource, Inc., Request for Review of Decision of the Universal Service Administrator, WC, Docket No. 02-60 (filed Oct. 17, 2014) (challenging USAC determination that an entity that provides emergency mental health services, among others, was not eligible for RHC support as a "Community Mental Health Center").



FCC Update

October 2014

www.caltelehealth.org



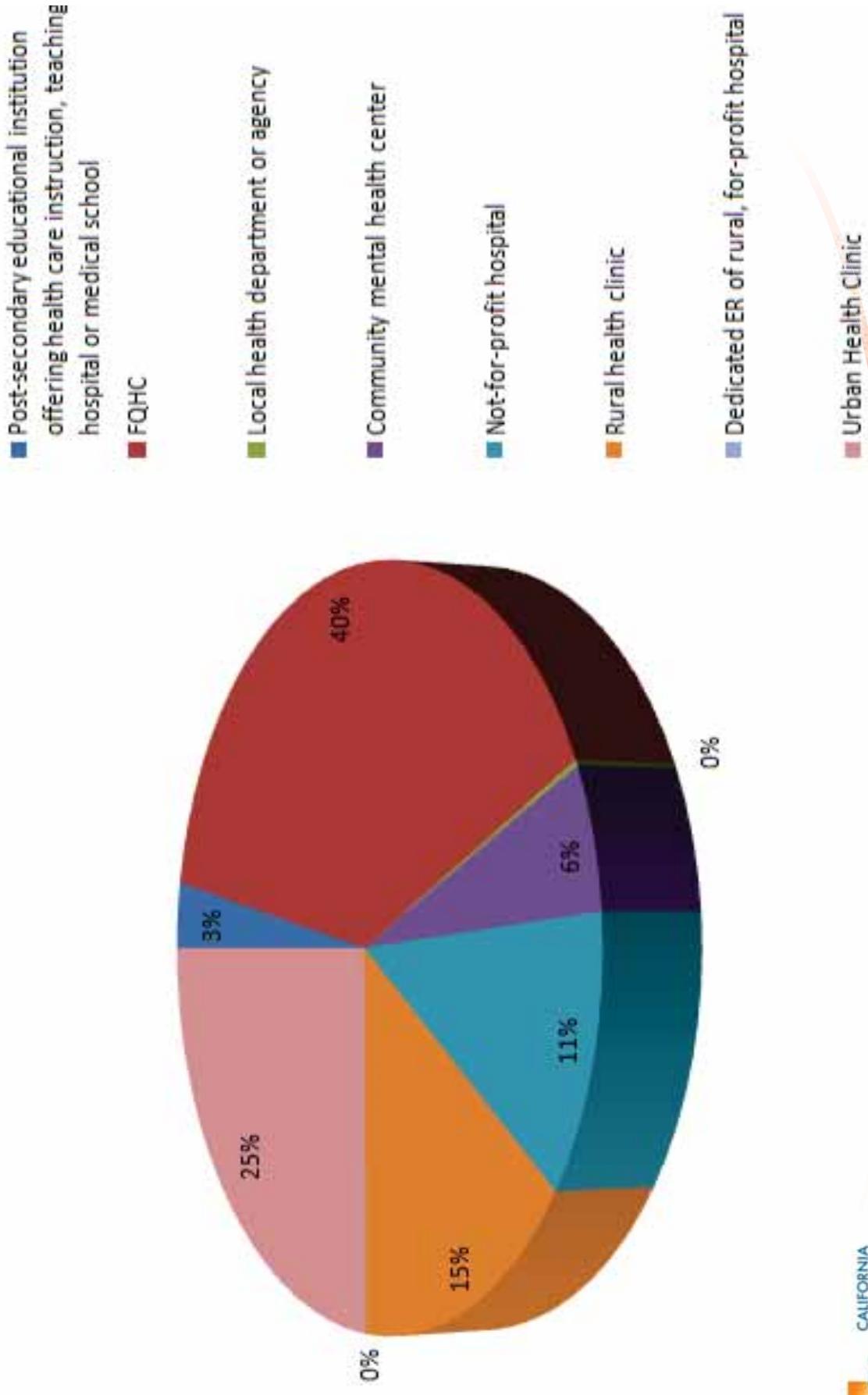
Agenda

- General status update
- Appeal of USAC decision re non-rural clinics
- Open Internet comments
- Expression of interest in a healthcare oriented broadband experiment

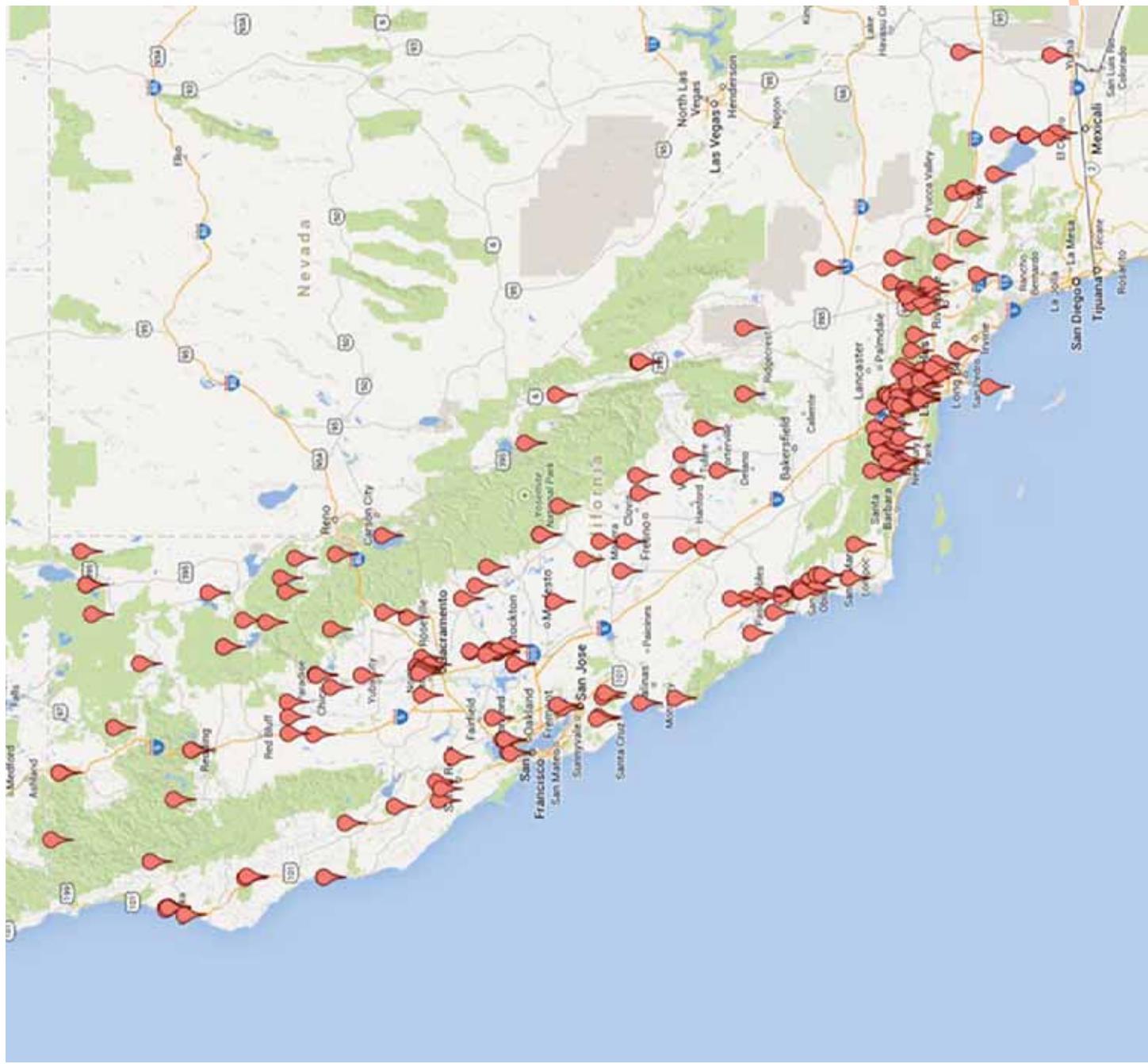
California Telehealth Network Overview

- CTN is a statewide, non-profit organization established by a consortium of stakeholders—University of California, State agencies, provider organizations, and foundations.
- California received \$22.1 million from the FCC and is the largest statewide network funded by the FCC RHCPP
- Established a high-speed, secure, broadband network to ensure quality access for medically-underserved communities
- Has direct connections to 279 healthcare sites with logical connections to 768 healthcare sites
- Over 350 additional sites requesting CTN participation
- Evolving into a “network of networks” with connections to other statewide and regional networks within California.

CTN Healthcare Sites - Categories



Map of Active FCC Funded CTN Member Sites



CTN Site Utilization

- In any given month 40% to 50% of CTN sites are actively engaged in providing telemedicine consultations
- CTN sites conduct 2,500 telemedicine consultations per month
- Public benefit for rural locations estimated at \$300 per telemedicine consultation – potential **\$9 million annually across CTN network**
- The leading CTN telemedicine specialty consultations are:
 1. Telepsychiatry/behavioral health (73%)
 2. Radiology (12%)
 3. Dermatology (6%)
 4. Endocrinology (5%)
 5. Infectious Disease (4%)
 6. Nephrology
 7. Neurology
 8. Oncology
 9. Pain Management
 10. Pediatrics



CTN Site Utilization

- In addition to telemedicine consultations, CTN sites rely on CTN for:
 1. Electronic Health Record information sharing
 2. Sharing of patient images
 3. Secure inter-clinic communication
 4. Virtual training and administrative meetings
 5. E-prescribing
 6. Broadband cost savings or to upgrade bandwidth



HCF New Build Initiative

- HCF provides for construction of dark fiber (where it is cost effective) to serve anchor healthcare institutions in unserved broadband communities.
- CTN intends to use HCF funding in conjunction with California Advances Services Fund (CASF) funding available through the CPUC for the 35% HCF match.
- This will enable CTN to drive broadband deployment deeper into California's remote underserved communities



Health clinics are a vital part of the healthcare ecosystem

- Important user base supporting large consortia
 - Critical source of membership fees that cover admin costs and assure sustainability
 - Pilot project NETC commented that over 26% (119) of their sites were non-rural clinics
 - 25% of CTN sites are non-rural clinics
- Significant procedural defects with USAC decision
 - Complete lack of notice
 - Triggered 4 major appeals representing some of the largest pilot projects:
 - California, Illinois, Oregon, Colorado
 - Demand model for HCF assumes participation by non-rural clinics
 - At a minimum, Commission should consider OMB approval date (September 2013) as effective date and grandfather any previously approved sites (even where FCL not issued)



How does the statutory text authorize RHC support for non-rural clinics?

- Functional definitions:
 - The FCC previously determined that Emergency Departments in rural for-profit rural hospitals are eligible as “rural health clinics.”
 - This reflects a functional approach to determining which HCPs fit into the statutory categories.
 - USAC should make functional definitions publicly available for each eligibility category and then re-consider eligibility of denied non-rural clinics given those functional criteria.
- Hospital-owned clinics are part of a hospital
 - Clinics owned by not-for-profit hospitals should be considered eligible under the “not-for-profit hospital” eligibility category
 - The rule requiring “[e]ach separate site or location [to] be considered an individual health care provider for purposes of calculating and limiting support” was intended only to facilitate the distance calculations used to “limit support” under the legacy Telecommunications Program.
 - See 54.601(a)(2)

Promoting the Open Internet for Telehealth

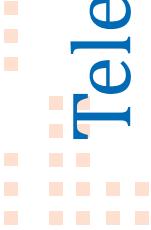


The California Telehealth Network believes that the Commission's Rules must ...

- (1) Protect patients,
- (2) Give flexibility to healthcare providers,
- (3) Encourage investment in broadband healthcare infrastructure, tools, software and applications, and
- (4) Advance healthcare policy.

Therefore, the Commission should ...

- Consider the evolution of the "use case" for telehealth and
- Evaluate its healthcare goal of "accelerating the adoption of health care technologies to improve health outcomes and lower health care costs" to frame rules in this NPRM.



Telehealth Transmissions Should Receive Priority from the ISPs

- Telehealth services on CTN's network require bandwidth to support full motion synchronous video conference services because that level of speed and reliability is necessary for many emergency telehealth services.
- In many underserved and rural communities reliable broadband – which is not always available – is the only way for a specialist to get to an emergency room to diagnose and treat a patient in time.
- Today, the FCC's E-rate, Healthcare Connect Fund and the Rural Health Care Pilot Program subsidize prioritization. CTN uses multi-protocol label switching to give priority to certain information packets (e.g., video packets) over other types of packets.

The specific rules drafted by the Commission in this docket are insufficient to encourage investment in HIT and achieve healthcare policy goals for telehealth. The rules need to ensure that telehealth transmissions:

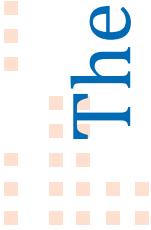
1. Are of the high speed and quality of service;
2. Are free from latency and interference;
3. Receive priority from ISPs; and,
4. Have the highest degree of security.



Harnessing the Power of Broadband for Healthcare

All Americans Need Access to Robust and Reliable Broadband for Telehealth

- Telehealth services are becoming more personally tailored, are expanding into the home, are being delivered through mobile applications, and are enhanced by the power of medical clouds and algorithms.
- The open Internet for healthcare requires a comprehensive approach integrating broadband and healthcare policy to ensure that all Americans – providers and patients alike – have access to the full range of telehealth services – ranging from emergency care, to consultation, to monitoring – wherever and whenever services are wanted or needed.
- The Commission should use its legal authority under Section 706 in a variety of contexts – including in this docket – to support success of healthcare policy goals.
- **This is the only way to ensure that**
 - Underserved communities – such as those served by CTN's network – have access to care, and
 - Patient outcomes improve while healthcare costs are reduced.



The FCC Should Continue to Innovate with the Rural Health Care Program

- This spring the Commission considered funding a limited number of rural healthcare broadband experiments
 - Suggested using \$50 million in RHC funds originally set aside for Skilled Nursing Facility (SNF) pilot program
 - 5 healthcare expressions of interest filed (including CTNs)
- *FCC should move forward and utilize the \$50 million of unused SNF funding for broadband experiments or innovative pilot projects*
 - Supporting home healthcare under Section 254(h)(2)(A)
 - Enhancing “access to advanced telecommunications and information services for . . . health care providers” might reasonably encompass providing discounted connectivity to health care providers offering connected mobile health kits to individual patients.
 - Would support Affordable Care Act goal of reducing hospital readmissions.